REMARKS/ARGUMENTS

The Examiner has delineated the following invention as being patentably distinct.

Group I: Claims 11-22, drawn to a method for the treatment of psoriasis and inflammatory processes of the skin and/or joints of mammals and human.

Group II: Claims 23-30, drawn to a pharmaceutical composition comprising a substance of the porphyrin synthesis or pharmaceutically compatible salts thereof in combination with a salicylate, wherein the pharmaceutical composition is for the phototherapy of psoriasis and inflammatory process of the skin and/or joints of mammals and human.

Applicants provisionally elect with traverse, the invention of Group II (Claims 23-30) drawn to a pharmaceutical composition comprising a substance of the porphyrin synthesis or pharmaceutically compatible salts thereof in combination with a salicylate, wherein the pharmaceutical composition is for the phototherapy of psoriasis and inflammatory process of the skin and/or joint of mammals and human.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are independent or patentably distinct.

The claims of Groups I and II are related as product and method of using and as such are considered as interdependent and should be examined together on the merits especially wherein the sole disclosed utility is that recited in the specification.

There is a commonality that exists between the groups. It is a technical relationship that defines the contribution which each of the groups taken as a whole makes over the prior art.

Applicants are of the opinion that finding pharmaceutical compositions comprising a substance of the porphyrin synthesis (and pharmaceutically acceptable esters or) salts thereof in combination with at least one salicylate for the phototherapy treatment of psoriasis and inflammatory processes of the skin and/or joints in a mammal/human, e. substances for such a specific purpose, makes sense only if the compositions are actually applied in a method of treatment of a person in need of such a treatment. In other words: Pharmaceutical compositions and the method of treatment in which they are administered to a patient in need of such a treatment are closely connected and in any case do relate to a single general novel and inventive concept.

As far as we can recognize, the document U.S. 5,885,557 (to Lentini) does not take away the novelty of such a single general and inventive concept, in contrast to the Examiner's opinion to this end. In contrast to the Examiner's opinion, the special technical feature shared by the aspects of the invention claimed in the first and second group of claims is not the sole presence of 5-ALA (5-aminolaevulinic acid), but is the presence of a combination of a substance of the porphyrin synthesis, particularly of 5-ALA, in combination with a salicylate. The '557 document discloses compositions comprising DHA (dihydroxyacetone) and a penetration attenuator, both in a pharmaceutically and/or cosmetically acceptable carrier, and such compositions may contain 5-ALA as a photosensitizer (Claims 1 and 15 in combination with column 8 of the '557 document, lines 21 to 24). No disclosure of combining 5-ALA or any other photosensitizer with a salicylate can be found at all in the `557 document. As a result of this consideration, it may be concluded that the "inventions" claimed in Groups I and II do share the above special technical feature which is not at all anticipated by the '557 document. Claims 12, 13 and 15-18, of Group I, and Claims 23-30 in Group II specifically share the common technical feature of the combined presence of a substance of the porphyrin

synthesis and of a salicylate, and no anticipating teaching of the common technical feature is found in the '557 reference.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility. Product and method of using are considered related inventions under 37 C.F.R. §1.475(b) and unity of invention between the groups exists.

Applicants respectfully traverse on the additional ground that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. §803 states as follows:

> If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that a restriction should now be required when the International Preliminary Report did not, the restriction is believed to be improper. 37 C.F.R. §1.475(b) provides in relevant part that a "national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to ... (3) a product and method."

For the reasons set forth above, Applicants request that the restriction requirement be withdrawn.

Applicants further request that if the invention of Group II is found allowable, withdrawn Group I which includes the limitations of the allowable claims be rejoined.

Respectfully submitted,

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